UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,902	12/27/2000	John C. Gaddy	TIMB-003	2760

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EXAMINER
SELLERS, DANIEL R

ART UNIT	PAPER NUMBER
2644	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/750,902	GADDY ET AL.
	Examiner	**Art Unit**	
	Daniel R. Sellers	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 August 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-67* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 December 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2.   Claims 1, 21, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson, U.S. Pat. No. 5,365,579 and well-known art.

3.   Regarding claim 1, Hendrickson teaches a networked system for synchronizing an audio capture program with a streamed audio file, wherein it receives a selection request that detects various state changes (Col. 6, line 64 – Col. 7, line 10 and Col. 9, line 65 – Col. 10, line 4). Hendrickson teaches streaming the audio and a synchronization system (Col. 3, lines 31-57). The synchronization system has a calculated time interval within the synchronization system (Col. 9, lines 51-64). It is inherent that the synchronization system is a combination of hardware and software, but Hendrickson does not teach the transmission of a program, or software, to the client device. It is well known, and Official Notice is given, that a piece of software, or a program, can be downloaded from a server by a client device. This is a well-known method for receiving updates, or new versions, of a piece of software. It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Hendrickson and the well-known art for the purpose of keeping a system updated.

4.   Regarding claim 21, see the preceding argument with respect to claim 1. The

combination of Hendrickson and the well-known art teaches the method, and the

apparatus with these features.

5.   Regarding claim 41, see the preceding argument with respect to claim 1. The

combination of Hendrickson and the well-known art teaches the method, which can

inherently reside in a computer readable medium.

6.   Claims 2-20, 22-40, and 42-67 are rejected under 35 U.S.C. 103(a) as being

unpatentable over the combination of Hendrickson and well-known art as applied to

claim 1 and in further view of Hilton.

7.   Regarding claim 2, the further limitation of claim 1, see Hilton

... wherein said method further comprises recording said data captured by said audio capture program on a storage medium disposed in said client device. (Par. 0083, lines 1-4)

The combination of Hendrickson and the well-known art teach a synchronized method

of controlling audio/video equipment from remote locations. Hendrickson does not

specifically teach that an audio capture program is used. Hilton teaches a method of

remote mixing, wherein the audio mix is downloaded to the client, and an audio capture

program captures audio on a storage medium in the client device. It would have been

obvious for one of ordinary skill in the art to combine the teachings of Hendrickson, the

well-known art, and Hilton for the purpose of synchronization in remote sound studios.

8.   Regarding claim 3, the further limitation of claim 1, see Hilton

... wherein said method further comprises, compressing said data captured by said audio capture program, streaming said compressed data to said server, and recording said compressed data on a storage medium disposed in said server device. (Par. 0045)

Hilton teaches the transmission of compressed data streams.

9.   Regarding claim 4, the further limitation of claim 1, see Hilton. Hilton teaches

local and remote mixing and editing of a single project, wherein it is inherent that control

of the audio capture program has the ability to be stopped (Par. 0061, lines 13-16 and

Par. 0088).

10.   Regarding claim 5, the further limitation of claim 4, see the preceding argument

with respect to claim 4. Hilton inherently teaches the ability to stop audio capture,

wherein a state change of a program, or a physical entity, is sensed.

11.   Regarding claim 6, the further limitation of claim 1, see the preceding argument

with respect to claim 3. Hilton teaches the transmission of the project from any client to

any other client, which includes the originating server, or studio.

12.   Regarding claim 7, the further limitation of claim 6, see the preceding argument

with respect to claim 3. Hilton teaches compression.

13.   Regarding claim 8, the further limitation of claim 1, see Hilton

... wherein said network comprises the Internet. (Par. 0028)

Hilton teaches the use of the Internet.

14.   Regarding claim 9, the further limitation of claim 4, see the preceding argument

with respect to claim 4. Hilton inherently teaches the stopping of the audio capture,

wherein it is a selection based on a user's interaction with the system. One skilled in

the art should recognize that a number of selections are made in an editing and

recording system, including but not limited to setting recording volumes, balances, and

equalization parameters.

15.   Regarding claim 10, see the preceding argument with respect to claims 1 and 2. The combination of Hendrickson, the well-known art, and Hilton teaches a method with these features. The combination receives requests from clients, transmits an audio file for local manipulation, and a program, which detects state changes that allow the addition of new material to the audio recording.

16.   Regarding claim 11, the further limitation of claim 10, see the preceding argument with respect to claim 5. The combination teaches a program, which can detect several different state changes.

17.   Regarding claim 12, the further limitation of claim 11, see the preceding argument with respect to claim 5. The combination inherently allows the stopping of an audio capture program.

18.   Regarding claim 13, the further limitation of claim 11, it is inherent that a number of state changes can be detected by an audio playback program. Hilton teaches remote playback (Par. 0062, lines 12-15). It is inherent that a playback program has a start, stop, and seek ability. Furthermore, the program is inherently able to detect state changes in the means providing the start, stop, and seek ability.

19.   Regarding claim 14, the further limitation of claim 11, see the preceding argument with respect to claims 9 and 13. It is inherent that many selections are made by the user of the system, and the combination has these features.

20.   Regarding claim 15, the further limitation of claim 10, the combination teaches an audio stream player (Par. 0045).

21.   Regarding claim 16, the further limitation of claim 10, see the preceding

argument with respect to claim 8. The combination teaches the use of the Internet.

22.   Regarding claim 17, the further limitation of claim 10, see the preceding

argument with respect to claim 2. The combination teaches the use of local storage.

23.   Regarding claim 18, the further limitation of claim 17, see the preceding

argument with respect to claim 6. The combination teaches the transmission of the

performance from any client to any client, including the originating server.

24.   Regarding claim 19, the further limitation of claim 18, see the preceding

argument with respect to claim 3. The combination teaches the use of compression

prior to transmission.

25.   Regarding claim 20, the further limitation of claim 10, see Hilton

... wherein said user's performance is recorded on said server device. (Par. 0140).

Hilton teaches the use of RAID (redundant array of independent disks) for storage. It is

inherent that the performance is uploaded back to the originating site and stored and

this RAID device when remote mixing and recording is finished.

26.   Regarding claim 22, the further limitation of claim 21, see the preceding

argument with respect to claim 2. The combination teaches the recording on a storage

medium on a client.

27.   Regarding claim 23, the further limitation of claim 21, see the preceding

argument with respect to claim 3. The combination teaches the compression of data,

the streaming of data, and the recording of data on a storage medium on a server.

28.   Regarding claim 24, the further limitation of claim 21, see the preceding argument with respect to claim 4. The combination teaches the stopping of audio capture.

29.   Regarding claim 25, the further limitation of claim 24, see the preceding argument with respect to claim 5. The combination teaches the detection of a state change corresponding to a stopping of audio capture.

30.   Regarding claim 26, the further limitation of claim 21, see the preceding argument with respect to claim 6. The combination teaches the uploading of data to a server.

31.   Regarding claim 27, the further limitation of claim 26, see the preceding argument with respect to claim 7. The combination teaches the compression prior to transmission.

32.   Regarding claim 28, the further limitation of claim 21, see the preceding argument with respect to claim 8. The combination teaches the use of the Internet.

33.   Regarding claim 29, the further limitation of claim 24, see the preceding argument with respect to claim 9. The combination teaches the detection of a state change corresponding to a user selection, which stops the audio capture.

34.   Regarding claim 30, see the preceding argument with respect to claim 10. The combination teaches an apparatus with the features of receiving a selection, transmitting a file, and transmitting a program with the ability to detect state changes corresponding to recording a performance.

35.　　Regarding claim 31, the further limitation of claim 30, see the preceding argument with respect to claim 11. The combination teaches the apparatus with the feature of detecting a third state change.

36.　　Regarding claim 32, the further limitation of claim 31, see the preceding argument with respect to claim 12. The combination teaches the apparatus with the feature of stopping the audio capture in response to the third change.

37.　　Regarding claim 33, the further limitation of claim 31, see the preceding argument with respect to claim 13. The combination teaches the apparatus with the feature of transmitting the third state change.

38.　　Regarding claim 34, the further limitation of claim 31, see the preceding argument with respect to claim 14. The combination teaches the transmission of the third change in response to a user selection.

39.　　Regarding claim 35, the further limitation of claim 30, see the preceding argument with respect to claim 15. The combination teaches an audio stream player.

40.　　Regarding claim 36, the further limitation of claim 30, see the preceding argument with respect to claim 16. The combination teaches the use of the Internet in the apparatus.

41.　　Regarding claim 37, the further limitation of claim 30, see the preceding argument with respect to claim 17. The combination teaches that the performance is recorded on the client.

42.　　Regarding claim 38, the further limitation of claim 37, see the preceding argument with respect to claim 18. The combination teaches that the performance is transmitted to the server.

43.　　Regarding claim 39, the further limitation of claim 38, see the preceding argument with respect to claim 19. The combination teaches that the performance is compressed prior to transmission.

44.　　Regarding claim 40, the further limitation of claim 30, see the preceding argument with respect to claim 20. The combination teaches that the performance is recorded on the server.

45.　　Regarding claim 42, the further limitation of claim 41, see the preceding argument with respect to claim 2. The combination teaches the recording on a storage medium on a client.

46.　　Regarding claim 43, the further limitation of claim 41, see the preceding argument with respect to claim 3. The combination teaches the compression of data, the streaming of data, and the recording of data on a storage medium on a server.

47.　　Regarding claim 44, the further limitation of claim 41, see the preceding argument with respect to claim 4. The combination teaches the stopping of audio capture.

48.　　Regarding claim 45, the further limitation of claim 44, see the preceding argument with respect to claim 5. The combination teaches the detection of a state change corresponding to a stopping of audio capture.

49.   Regarding claim 46, the further limitation of claim 41, see the preceding

argument with respect to claim 6. The combination teaches the uploading of data to a

server.

50.   Regarding claim 47, the further limitation of claim 46, see the preceding

argument with respect to claim 7. The combination teaches the compression prior to

transmission.

51.   Regarding claim 48, the further limitation of claim 41, see the preceding

argument with respect to claim 8. The combination teaches the use of the Internet.

52.   Regarding claim 49, the further limitation of claim 44, see the preceding

argument with respect to claim 9. The combination teaches the detection of a state

change corresponding to a user selection, which stops the audio capture.

53.   Regarding claims 50-60, the combination teaches a method, and it is inherent

that the method is performed by a computational device, and the method is stored on a

device that is readable by the computational device.

54.   Regarding claim 50, see the preceding argument with respect to claim 10. The

combination teaches a method with the features of receiving a selection, transmitting a

file, and transmitting a program with the ability to detect state changes corresponding to

recording a performance.

55.   Regarding claim 51, the further limitation of claim 50, see the preceding

argument with respect to claim 11. The combination teaches the method with the

feature of detecting a third state change.

56.   Regarding claim 52, the further limitation of claim 51, see the preceding

argument with respect to claim 12. The combination teaches the method with the

feature of stopping the audio capture in response to the third change.

57.   Regarding claim 53, the further limitation of claim 51, see the preceding

argument with respect to claim 13. The combination teaches the method with the

feature of transmitting the third state change.

58.   Regarding claim 54, the further limitation of claim 51, see the preceding

argument with respect to claim 14. The combination teaches the transmission of the

third change in response to a user selection.

59.   Regarding claim 55, the further limitation of claim 50, see the preceding

argument with respect to claim 15. The combination teaches an audio stream player.

60.   Regarding claim 56, the further limitation of claim 50, see the preceding

argument with respect to claim 16. The combination teaches the use of the Internet in

the method.

61.   Regarding claim 57, the further limitation of claim 50, see the preceding

argument with respect to claim 17. The combination teaches that the performance is

recorded on the client.

62.   Regarding claim 58, the further limitation of claim 57, see the preceding

argument with respect to claim 18. The combination teaches that the performance is

transmitted to the server.

63.   Regarding claim 59, the further limitation of claim 58, see the preceding

argument with respect to claim 19. The combination teaches that the performance is

compressed prior to transmission.

64.   Regarding claim 60, the further limitation of claim 50, see the preceding

argument with respect to claim 20. The combination teaches that the performance is

recorded on the server.

65.   Regarding claim 61, the further limitation of claim 10, see the preceding

argument with respect to claim 1. Hendrickson teaches a step of transmitting an audio

file to the client device, such as a soundtrack.

66.   Regarding claim 62, the further limitation of claim 10, see the preceding

argument with respect to claim 1. Well-known art teaches that an updated program can

be downloaded.

67.   Regarding claim 63, the further limitation of claim 30, see the preceding

argument with respect to claim 61. The combination teaches these features.

68.   Regarding claim 64, the further limitation of claim 30, see the preceding

argument with respect to claim 62. The combination teaches these features.

69.   Regarding claim 65, the further limitation of claim 50, see the preceding

argument with respect to claim 61. The combination teaches these features.

70.   Regarding claim 66, the further limitation of claim 50, see the preceding

argument with respect to claim 62. The combination teaches these features.

71.   Regarding claim 67, the further limitation of claim 50, see the preceding

argument with respect to claim 1. Hendrickson teaches that a user can operate a

remote location system and can send a file (Col. 3, line 58 – Col. 4, line 6).

Response to Arguments

72.   Applicant's arguments with respect to claims 1-60 have been considered but are

moot in view of the new ground(s) of rejection.

73.   Claims 1-67 are rejected under 35 USC 103(a) as stated in the previous

arguments.

Conclusion

74.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Matsutsuka et al., U.S. Patent 6,211,872.

75.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Daniel R. Sellers whose telephone number is 571-272-

7528. The examiner can normally be reached Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free).

DRS

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PRIMARY EXAMINER